

Message Text

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CIAE-00 CIEP-01 COME-00 DODE-00 DOTE-00 EB-07 EPA-01

ERDA-05 FMC-01 TRSE-00 H-02 INR-07 INT-05 JUSE-00

L-03 NSAE-00 NSC-05 NSF-01 OES-06 OMB-01 PA-01 PM-04

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R 150022Z APR 76

FM USMISSION USUN NY

TO SECSTATE WASHDC 6890

C O N F I D E N T I A L SECTION 1 OF 3 USUN 1573

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FROM LOSDEL

E.O. 11652: GDS

TAGS: PLOS

SUBJ: LOS: CLASSIFIED SUPPLEMENT TO UNCLASSIFIED MID SESSION

REPORT MARCH 15-APRIL 9

1. SUMMARY: WHILE THE 3 ISSUES MENTIONED BY THE SECRETARY ARE THE HARDEST NUTS TO CRACK, USDEL IS AT THIS TIME MOST CONCERNED ABOUT POSSIBILITY THAT OUR GAINS IN COMMITTEE 2 TEXT MAY START TO BE ERODED, PARTICULARLY AS COASTAL STATES CONTINUE TO SEEK WAYS TO RETALIATE FOR LL/GDS ATTACK. THERE REMAIN SEVERAL CRITICAL INDICATORS OF ULTIMATE COURSE OF PRESENT NEGOTIATION WHICH CANNOT AS YET BE ASSESSED. THESE ARE ACCEPTABILITY TO GROUP OF 77 (AND TO COMMITTEE I GENERALLY) OF REVISED PACKAGE OF ARTICLES WHICH WOULD REFLECT A BALANCE OF INTERESTS IN DEEP SEABED AS DESCRIBED IN SECRETARY KISSINGER'S APRIL 8 LOS SPEECH; THE EFFECTS OF
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THE CURRENT CONFLICT BETWEEN COASTAL AND LANDLOCKED STATES

WITH REGARD TO THE STATUS OF THE ECONOMIC ZONE AND RELATED ISSUES OF NATURE OF COASTAL STATE JURISDICTION OVER VESSEL SOURCE POLLUTION AND SCIENTIFIC RESEARCH WITHIN THE ZONE; THE DEGREE TO WHICH OTHER COMMITTEE II ISSUES, INCLUDING PARTICULARLY STRAITS ARTICLES, REMAIN SUBSTANTIALLY AS WRITTEN; AND THE ACCEPTABILITY OF EFFECTIVE DISPUTE SETTLEMENT PROCEDURES, PARTICULARLY WITH RESPECT TO THE ECONOMIC ZONE. IN SUM, APART FROM THE NEGOTIATION OF AN ACCEPTABLE ACCOMMODATION ON DEEP SEABED MINING, MOST REMAINING CRITICAL ISSUES BEFORE THE CONFERENCE TURN ON RESOLUTION OF STATUS OF ECONOMIC ZONE AND DIFFERENCES OF PERCEPTION AS TO RESIDUAL RIGHTS IN THE ZONE. IN COMMITTEE I (DEEP SEABEDS) TIERED NEGOTIATING PROCESS HAS BEEN EFFECTIVE IN LEADING TOWARD FAVORABLE REVISION OF SNT. IN COMMITTEE II, (TERRITORIAL SEA, STRAITS, ECONOMIC ZONE) OFFENSIVE BY GROUP OF LANDLOCKED AND DISADVANTAGED STATES HAS HAD EFFECT OF HARDENING LINES OF DISCUSSION. MOREOVER, THE PECULIAR PROCEDURE USED IN COMMITTEE II PUTS ALL DECISIONS IN THE HANDS OF CHAIRMAN AGUILAR WHO, UNDER THE SILENCE IS CONSENT TO EXISTING TEXT RULE, WILL HAVE BROAD FLEXIBILITY IN REVISING TEXT. MANY DELS, INCLUDING USDEL, ARE UNEASY. IN COMMITTEE III (POLLUTION AND SCIENTIFIC RESEARCH) THE MOST DIFFICULT ISSUES ARE ALSO INVOLVED IN QUESTION OF STATUS OF ECONOMIC ZONE AND TO A LESSER EXTENT ON RESOLUTION OF COASTAL/LANDLOCKED CONFLICT. TRUE NEGOTIATING POSITIONS ON PRINCIPLE AND MAIN ELEMENTS OF COMPULSORY DISPUTE SETTLEMENT HAVE NOT EMERGED FROM THE "FOR THE RECORD" DISCUSSION IN PLENARY DEBATE BUT KEY IS ALSO ACCEPTABILITY OF CDS PROCEDURES IN ECONOMIC ZONE. END SUMMARY.

2. CONFERENCE POLITICS: ALTHOUGH IT IS TOO EARLY TO ASSESS CONCRETE RESULTS OF SECRETARY KISSINGER'S APRIL 8 APPEARANCE AND PROPOSALS, PSYCHOLOGICAL IMPACT HAS BEEN IMPORTANT IN BRINGING HOME FACT THAT TIME IS IN FACT RUNNING OUT ON POSSIBILITY OF SUCCESSFUL TREATY. PRESIDENT AMERASINGHE HAS BEEN EMPHASIZING REASONABILITY OF SECRETARY'S PROPOSALS ON DEEP SEABEDS AND FACT THAT SMALL COUNTRIES WILL SUFFER MORE THAN LARGE IN FAILURE
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TO OBTAIN TREATY. CANADIANS HAVE BEEN MORE OBVIOUS THAN USUAL IN STIRRING UP DISCONTENT WITH STRAITS REGIME AND ENCOURAGING SOME COASTAL STATES TO THREATEN POSSIBILITY OF RENEWED ATTACK ON STRAITS AS CLUB TO OBTAIN COASTAL STATE POSITIONS IN ECONOMIC ZONE WHICH BENEFIT CANADA'S POSITION ON POLLUTION AND RELATED ISSUES. ALTHOUGH THE LL/GDS PUSH FOR ACCESS TO ALL RESOURCES OF THE ECONOMIC ZONE IS GENERALLY SEEN AS A TACTIC TO OB-

TAIN PRIMARY OBJECTIVE--ACCESS TO FISHERIES--PERCEPTION BY COASTAL STATES OF THREAT TO THEIR UNQUESTIONED JURISDICTION OVER RESOURCES HAS HARDENED THEIR STANCE ON OTHER JURISDICTIONAL ISSUES AFFECTING STATUS OF THE ZONE. SOME SEE ISSUE OF HIGH SEAS VERSUS TERRITORIAL SEAS IN THE ZONE AS OPPOSITE PARAMETERS OF NEGOTIATION WITH ACCOMMODATION SOMEWHERE IS BETWEEN. NEW US PROPOSALS ON DEEP SEABED HAVE LEFT US IN MODERATE POSITION VIS-A-VIS BOTH LDC EXTREMISTS, AND USSR, FRANCE AND OTHERS WHO FOR REASONS OF THEIR OWN ARE LESS FORTHCOMING TOWARD LDC NEEDS. IT IS APPARENT THAT ALL THESE CROSS-CURRENTS WILL ONLY SORT THEMSELVES OUT IN A REVISED SINGLE NEGOTIATING TEXT, AND PROCESS OF ITS ADOPTION AS FORMAL CONFERENCE DOCUMENT.

3. COMMITTEE I (DEEP SEABEDS). FROM VERY COMMENCEMENT OF SESSION, PROCEDURES UTILIZED IN COMMITTEE I (C-I) HAVE BEEN EFFECTIVE IN LEADING TOWARDS REVISION OF SNT IN MANNER FAVORABLE TO US INTERESTS. ALTHOUGH SHARPLY CRITICIZED BY SOME LDC'S FOR HOLDING PRIVATE INTER-SESSIONAL CONSULTATIONS, CHAIRMAN ENGO HAS PRIVATELY SANCTIONED ACTIVITIES OF SECRET RPT SECRET BRAZIL GROUP (BRAZIL, CHILE, MEXICO, PERU, KENYA, SRI LANKA, SINGAPORE, NORWAY, FRANCE AND US) AND ADHERED TO HIS COMMITMENT TO DISTRIBUTE ONLY THOSE TEXTS NEGOTIATED IN THIS GROUP TO C-I AS HIS PERSONAL WORK PRODUCT. MEMBERS OF SECRET BRAZIL GROUP HAVE IN ALL INSTANCES DEFENDED PRE-ARRANGED COMPROMISES WORKED OUT IN GROUP AND HAVE EFFECTIVELY PLAYED OUT AGREED TACTICAL SCENARIOS IN C-I INFORMAL MEETINGS. PROCESS OF FILTERING COMPROMISE IDEAS FROM SECRET BRAZIL GROUP INTO SMALL OPEN-ENDED MEETINGS OF INTERESTED DELS CHAIRED BY ENGO AND THAN INTO FULL C-I INFORMAL MEETINGS APPEARS TO BE WORKING CONFIDENTIAL

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WELL.

NOTE BY OC/T: NOT PASSED ABOVE ADDRESSEES.

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INFO OCT-01 IO-13 ISO-00 AF-06 ARA-06 EA-07 EUR-12 NEA-10

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C O N F I D E N T I A L SECTION 2 OF 3 USUN 1573

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FROM LOSDEL

4. C-I HAS DEVOTED MOST OF ITS MEETINGS TO DISCUSSION OF ANNEX I (BASIC CONDITIONS OF PROSPECTING, EXPLORATION AND EXPLOITATION). SECRET BRAZIL GROUP HAS NOW COMPLETED NEGOTIATION OF REVISED ANNEX I WHICH ENGO WILL DISTRIBUTE TO C-I, TOGETHER WITH ARTICLES 21, 24, 25, AND 26 FROM FEBRUARY INTERSESSIONAL MEETING AND SLIGHTLY ALTERED ARTICLES 9 AND 22 FROM THAT MEETING, POSSIBLY BY END OF FIFTH WEEK. INTENTION IS TO THEN ALLOW GROUP OF 77 SEVERAL DAYS TO REVIEW REVISED ARTICLES, FOLLOWED BY DEBATE ON REMAINDER OF ARTICLES IN C-I AND SUBSEQUENT ISSUANCE OF COMPREHENSIVE AMENDED SNT.

5. PACKAGE WORKED OUT IN SECRET BRAZIL GROUP INCLUDES THREE-PART COMPROMISE ON ECONOMIC IMPLICATIONS PRESENTED IN SECRETARY'S SPEECH (AUTHORITY PARTICIPATION IN FUTURE COMMODITY ARRANGEMENTS, INTERIM SEABED PRODUCTION
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LIMITATION OF DEFINITE DURATION BASED ON PROJECTED INCREASE IN WORLD NICKEL CONSUMPTION, AND COMPENSATORY ADJUSTMENT ASSISTANCE ARRANGEMENTS FOR LDC PRODUCERS HARMED BY SEABED MINING). WHILE KEY DETAILS REMAIN TO BE NEGOTIATED IN SECRET BRAZIL GROUP, US ACCEPTANCE OF OUTLINES OF THIS COMPROMISE HAS GAINED AGREEMENT OF GROUP TO NEW DRAFT ANNEX I ALTERED MARKEDLY IN OUR FAVOR. NEW

ANNEX I PROVIDES FOR PARALLEL EXPLOITATION SYSTEM IN WHICH ENTERPRISE OPERATES UNDER SAME BASIC CONDITIONS AS OTHER CONTRACTORS; ENTIRE AREA BEING OPEN TO ACTIVITIES IN AREA; SINGLE CONTRACTS COVERING ALL STAGES OF OPERATIONS; AND ISSUANCE OF CONTRACTS ON ESSENTIALLY FIRST-COME BASIS. DETAILS OF PROFIT-SHARING REMAIN TO BE NEGOTIATED BUT SECRET BRAZIL GROUP APPEARS TO ACCEPT BASIC OUTLINES OF PROFIT-SHARING APPROACH CONSIDERED FAVORABLE BY US INDUSTRY ADVISORS. IN ADDITION, UNDERSTANDING HAS BEEN REACHED IN GROUP THAT AUTHORITY WILL HAVE REGULATORY POWERS ONLY OVER PROSPECTING, EXPLORATION AND EXPLOITATION, AND NOT RPT NOT OVER SCIENTIFIC RESEARCH.

6. KEY OUTSTANDING ISSUES IN ANNEX I ARE RESERVATION OF AREAS (BANKING SYSTEM) AND QUOTA. WHILE OTHER MEMBERS OF GROUP OF 5 AND EUROPEAN COMMUNITY HAVE WEAKENED THEIR SUPPORT FOR QUOTA, USSR AND FRANCE HAVE SHOWN NO FLEXIBILITY. PROBLEM IS ALL THE MORE SERIOUS SINCE ACTIVE BRAZIL SUPPORT FOR BANKING SYSTEM IS GENERATING STRONG OPPOSITION IN G-77. IF LDC'S CONTINUE TO REJECT CONCEPT OF DIVIDING AREA INHERENT IN BANKING SYSTEM, NO PROVISION WILL BE MADE FOR SETTING ASIDE SEABED MINE SITES FOR LDC'S IN FUTURE AND SOVIET AND FRENCH LOBBYING FOR LIMITATIONS ON AMOUNT OF AREA EXPLOITED BY INDIVIDUAL STATES MAY FIND FERTILE GROUND IN GROUP OF 77.

7. C-I HAS NOT DISCUSSED MACHINERY ISSUES, NOR HAS SECRET BRAZIL GROUP ADDRESSED MACHINERY BEYOND MATTERS WORKED OUT IN FEBRUARY INTERSESSIONAL MEETING. IN PRIVATE CONSULTATIONS, HOWEVER, USDEL HAS LET IT BE KNOWN THAT WE ARE UNHAPPY WITH ALL EXISTANT PROPOSALS ON COUNCIL COMPOSITION AND VOTING AND IMPLIED THAT WE CONFIDENTIAL

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ARE DEVELOPING NEW PROPOSALS INCORPORATING WEIGHTED VOTING APPROACHES. SECRET BRAZIL GROUP IS SINE QUANO OF US AGREEMENT TO C-I PACKAGE.

8. LIKELIHOOD OF REVISED SNT BEING GENERALLY ACCEPTABLE TO US DEPENDS ON RESULTS ON SCHEDULED GROUP OF 77 REVIEW OF NEW DRAFT ARTICLES AND ENGO'S REACTION TO PREDICTABLE SPLIT THAT WILL ARISE IN LDC RANKS. WE ANTICIPATE THAT LDC MEMBERS OF SECRET BRAZIL GROUP AND OTHER MAJOR LDC LAND-BASED PRODUCERS WILL DEFEND NEW ENGO ARTICLES, WHILE EXTREMISTS SUCH AS ALGERIA, INDIA AND POSSIBLY TANZANIA WILL ATTEMPT TO ENSURE GROUP OF 77 REJECTION OF THEM. SINCE GROUP OF 77 OPERATES ON CONSENSUS BASIC, WE DOUBT ENGO TEXTS CAN BE FLATLY RE-

JECTED AT THIS STAGE. HOWEVER, ENGO'S POSSIBLE RESPONSE TO POSSIBLE AFRICAN GROUP CRITICISM AFTER REVISION OF SNT APPEARS COULD BE CAUSE FOR CONCERN. USDEL IS HOPEFUL THAT SECRETARY'S SPEECH, IN PUBLICLY PUTTING FOWARD ELEMENTS OF BASIC C-I PACKAGE, HAS RAISED ITS STATUS FROM PRELIMINARY SOUNDINGS TO NEGOTIATED DEAL IN MINDS OF MANY LDC'S OUTSIDE SECRET BRAZIL GROUP. IF SO, MAJORITY OF DELS, AND PARTICULARLY ENGO, MAY NOW FEEL THEY ARE TOO FAR COMMITTED TO DISTURB EMERGING COMPROMISES.

9. COMMITTEE II (TERRITORIAL SEA, STRAITS, ECONOMIC ZONE). OVERALL, THE COMMITTEE'S WORK IS PROCEEDING CONSTRUCTIVELY, THOUGH THE PACE IS SLOW. THE ONLY CRITICAL IMPORTANT US INTEREST THAT APPEARS TO BE SERIOUSLY THREATENED IS TO OBTAIN A HIGH SEAS CHARACTER FOR USES OF THE ECONOMIC ZONE WHICH ARE NOT INCOMPATIBLE WITH COASTAL STATES RIGHTS AND DUTIES IN THE ZONE. THE ATTACK ON STRAITS WAS BITTER, BUT LIMITED TO ABOUT A DOZEN HARD-LINE OPPONENTS. IF THE PATTERN SET TO DATE PREVAILS THROUGH THE REST OF THE SESSION, WE SHOULD EXPECT NO MAJOR DIFFICULTIES.

10. C-II HAS TO DATE COMPLETED REVIEWING ALL ARTICLES THROUGH 56 AND BEGAN DEBATE ON ARTICLE 57 OF THE ECONOMIZ ZONE CHAPTER. ALTHOUGH LARGE NUMBERS OF DELEGATIONS INTERVENED ON THE CRITICAL ARTICLES, NO SINGLE

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PROPOSAL FOR SUBSTANTIAL MODIFICATION OF THE TEXT RECEIVED SUFFICIENT SUPPORT TO ASSURE ITS ADOPTION IN THE FORTHCOMING REVISED TEXT UNDER THE PROCEDURAL GROUND RULES SET FORTH BY THE CHAIRMAN.

11. THE COHESIVENESS OF THE GROUP OF LAND-LOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES (LL/GDS), INCLUDING DEVELOPING AND DEVELOPED STATES, WAS MOST SIGNIFICANT. AUSTRIA, ZAMBIA, NETHERLANDS, AND SWEDEN LED THE LL/GDS EFFORT. THE USSR AND MEMBERS OF THE EASTERN EUROPEAN BLOC HAVE EXPRESSED SYMPATHY FOR THEIR CONCERNS, AND THE US HAD INDICATED ITS SUPPORT FOR AN EQUITABLE SOLUTION. THE COASTAL STATE BACKLASH WAS LED BY PERU, BRAZIL, URUGUAY, INDIA AND CHINA, WHO MADE ATTEMPTS TO MAINTAIN LDC SOLIDARITY PRIMARILY BY RAISING THE ISSUE OF MILITARY ACTIVITIES BY THE "SUPER-POWERS" IN THE ECONOMIC ZONE. THERE IS A REAL RISK THAT THE COASTAL STATE BACKLASH TO THE LL/GDS WILL HURT THE MARITIME POWERS, AND THE SOVIETS ARE DISTURBINGLY SLOW IN REALIZING THIS.

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C O N F I D E N T I A L SECTION 3 OF 3 USUN 1573

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FROM LOSDEL

12. DURING DEBATE ON THE FISHERIES ARTICLES (50-56), THE EUROPEAN ECONOMIC COMMUNITY CIRCULATED DRAFT AMENDMENTS WHICH REFLECTED THEIR INTERNAL NEGOTIATION AND WERE SUPPORTED BY ALL MEMBERS. ARTICLE 53 (HIGHLY MIGRATORY SPECIES) SEEMED TO SURVIVE AN ATTEMPT TO DELETE BY ECUADOR AND SENEGAL, AND WILL PROBABLY CHANGE LITTLE, ALTHOUGH THE DISPARATE POSITIONS OF THE INTERESTED STATES HAVE NOT BEEN RESOLVED. ONE ARTICLE 54 (ANADROMOUS SPECIES), ICELAND PROPOSED A PRE-AGREED SET OF TECHNICAL AMENDMENTS WHICH SEEMED TO BE ACCEPTED WITHOUT COMMENT.

13. PRIVATE CONSULTATIONS AMONG THE GROUP OF BROAD MARGIN STATES, WHICH HAS BEEN EXPANDED TO INCLUDE INDIA, HAVE BEEN LARGELY SUCCESSFUL IN DEVELOPING A COMMON APPROACH AMONG THE STATES PARTICIPATING. THE GROUP
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APPEARS WILLING TO ACCEPT THE OUTER EDGE OF THE MARGIN DEFINED, ALTERNATIVELY, AT 60 MILES FROM THE FOOT OF THE CONTINENTAL SLOPE, OR AT THE POINTS WHERE THE THICKNESS OF SEDIMENT IS AT LEAST ONE PERCENT OF THE DISTANCE FROM SUCH POINT TO THE FOOT OF THE SLOPE. THIS FORMULA, PROPOSED BY IRELAND, WOULD PROVIDE A PRECISE DELIMITATION STANDARD AND PRESERVE COASTAL STATE JURISDICTION OVER AREAS MOST LIKELY TO CONTAIN HYDROCARBONS WITHOUT EXTENDING NATIONAL JURISDICTION TO UNREASONABLE DISTANCES. THE US SITE VALUE OF PRODUCTION SYSTEM OF REVENUE SHARING HAS GAINED SUPPORT (OVER PROFIT-SHARING) AMONG MEMBERS OF THE GROUP WHO FAVOR THE REVENUE-SHARING CONCEPT. CONCEPT OF A BOUNDARY REVIEW COMMISSION IS NEARING ACCEPTANCE, WITH SOVIETS STILL BEING DIFFICULT. ABILITY AND WILLINGNESS OF GROUP TO ACCOMMODATE INDIA WHICH HAS RECENTLY JOINED BROAD MARGIN GROUP IS A MAJOR QUESTION TO BE RESOLVED.

14. COMMITTEE III: MARINE SCIENTIFIC RESEARCH. ACTUAL NEGOTIATIONS ON THE BASIC ELEMENTS OF A REGIME FOR SCIENTIFIC RESEARCH IN THE ECONOMIC ZONE ARE JUST BEGINNING IN A SMALL PRIVATE CONSULTING GROUP CHAIRED BY AMBASSADOR BRENNAN OF AUSTRALIA. DISCUSSION TO DATE HAS BEEN BASED ON STRUCTURE OF EVENSE GROUP TEXT WITH FOLLOWING ELEMENTS: NOTIFICATION TO COASTAL STATE AND OBLIGATIONS SUCH AS DATA SHARING ON RESEARCHING STATE FOR ALL SCIENTIFIC RESEARCH; COASTAL STATE CONSENT REQUIREMENT FOR SCIENTIFIC RESEARCH DIRECTED AT RESOURCE EXPLOITATION; TACIT ACCEPTANCE PROCEDURE BY COASTAL STATE; AND COMPULSORY DISPUTE SETTLEMENT. ATMOSPHERE IN GROUP IS CONSTRUCTIVE AND IT DOES PRESENT POSSIBILITY OF NEGOTIATING ACCOMMODATION ALONG THESE LINES. MOST DIFFICULT POINT WILL BE WHETHER BINDING DISPUTE SETTLEMENT APPLIES TO COASTAL STATES REFUSAL OF CONSENT. DEVELOPING COASTAL STATES, INCLUDING THOSE WHO ARE OTHERWISE SOMEWHAT MODERATE ON THIS ISSUE, ARE ADAMANTLY OPPOSED TO BINDING DISPUTE SETTLEMENT.

15. COMMITTEE III: MARINE POLLUTION. ISSUES OTHER THAN VESSEL POLLUTION SOURCE POLLUTION ARE GENERALLY COMPLETED. COMMITTEE SKIPPED FIRST 15 ARTICLES AND MAY NOT RETURN TO THEM WITH VALLARTA TAKING MINOR AMENDMENTS
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PROVATELY. ARTICLES ON STANDARD-SETTING AND ENFORCEMENT RE LAND BASED POLLUTION CONTINENTAL SHELF POLLUTION AND

OCEAN DUMPING ARE COMPLETED. ON VESSEL SOURCE POLLUTION MOST DELEGATIONS ARE MOVING TOWARDS EVENSEN GROUP TEXT WITH FOLLOWING CONCEPTS: (A) COASTAL STATE STANDARD-SETTING AND ENFORCEMENT IN THE TERRITORIAL SEA (STRONGLY DISPUTED BY MARITIME STATES) WITH REGARD TO CONSTRUCTION DESIGN AND EQUIPMENT REGULATIONS; (B) PORT STATE ENFORCEMENT OF INTERNATIONAL DISCHARGE STANDARDS (GAINING ACCEPTANCE); (C) COASTAL STATE ENFORCEMENT OF INTERNATIONAL DISCHARGE STANDARDS IN SOME PART OF ECONOMIC ZONE (STRONG DISPUTE OVER EXTENT OF AREA) WITH MOST MARITIMES SUPPORTING SMALL AREA AND COASTAL STATES SUPPORTING 200 MILES; (D) SAFEGUARDS; (E) MILITARY EXEMPTION; (F) COMPULSORY DISPUTE SETTLEMENT. PROCEDURES HAVE POTENTIAL FOR PROVIDING METHOD OF REACHING AGREEMENT.

16. DISPUTE SETTLEMENT. DEBATE IN PLENARY ON COMPULSORY SETTLEMENT OF DISPUTES WAS FAR MORE RESERVED THAN EXPECTED. WE HAD EXPECTED STRONGER ATTACK ON PRESIDENT'S TEXT. IT IS CLEAR, HOWEVER, THAT, WITH POSSIBLE EXCEPTION OF NAVIGATION AND OVERFLIGHT DISPUTES, CDS WITHIN ECONOMIC ZONE WILL BE DIFFICULT TO NEGOTIATE. IT IS ALSO CLEAR THAT AMERASINGHE WILL HAVE GREAT FLEXIBILITY IN REDRAFTING TEXT, SINCE VIEWS IN PLENARY WERE WIDELY DIVERGENT ON BASIC ISSUES OF STRUCTURE AND COMPETENCE OF SETTLEMENT MACHINERY.

17. FOR MOST PART, THERE WERE FEW SURPRISES IN PLENARY. ONE SURPRISE WAS SHARP ATTACK BY KENYA (NJENGA) ON CDS IN ECONOMIC ZONE AND HIS DISAVOWAL OF ADEDE'S (KENYA) WORK ON CDS, WHICH NJENGA STATED REPRESENTED ADEDE'S PERSONAL VIEWS. PRIVATELY, ADEBE SAYS NJENGA SPOKE FOR DOMESTIC POLITICAL CONSUMPTION AND PLENARY STATEMENT DOES NOT FULLY REPRESENT KNEYAN POSITION.

18. NOTEWORTHY DEVELOPMENT IN PLENARY DISCUSSION OF CDS IN ECONOMIC ZONE WAS INDICATION THAT CDS FOR NAVIGATION AND OVERFLIGHT DISPUTES WOULD HAVE FAIRLY BROAD SUPPORT. BOTH INDIA AND PERU (FOR FIRST TIME) INDICATED THEY MIGHT ACCEPT CDS ON THOSE QUESTIONS.
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19. MILITARY EXCEPTION ALSO APPEARS TO BE FARING WELL. ONLY ONE STATE--NEW ZEALAND--OPENLY ATTACKED MILITARY EXCEPTION.

20. ONE ISSUE OF SERIOUS DIFFICULTY IS QUESTION OF ACCESS TO SETTLEMENT MACHINERY. IRELAND SUPPORTED THE RIGHT OF PRIVATE PARTIES TO BRING ACTIONS AND CONTINUED TO SUPPORT BROAD ACCESS, CITING NEED FOR INDIVIDUAL OWNER

OR OPERATOR TO SUE FOR VESSEL RELEASE. LARGE NUMBER OF
STATES, HOWEVER, DECLARED ONLY STATES SHOULD BE PARTIES.
ARAB STATES INTRODUCED IDEA THAT LIBERATION MOVEMENTS
SHOULD BE PERMITTED ACCESS TO CDS PROCEDURES.
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